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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/042,371

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Andrew C. Gilbert

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EXAMINER

ONYEZIA, CHUKS N

ART UNIT

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3691

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/042,371

**Applicant(s)**

GILBERT ET AL.

**Examiner**

CHUKS ONYEZIA

**Art Unit**

3691

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/08/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-18, 21, 22, 25, 26, 28, 42-46 and 48-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18, 21, 22, 25, 26, 28, 42-46 and 48-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20080930
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Applicants' amendment and arguments filed on 09/08/2008 have been fully considered, and discussed below. It is noted that Independent claims 13 and 42 have been amended, dependent claims 14-17, 21-22, 25- 26, 28, and 43-46 have been amended, and new dependent claims 48-80 have been added. In particular, independent claims 13 and 42 have been amended to be dependent claims, and dependent claims 14, 25, and 43 have been amended to be independent claims. Independent claim 24 and dependent claims 18, 29, and 47 have been canceled. Accordingly, the following claims are under consideration:

- Independent claims 14, 25, and 43.
- Dependent claims 13, 15-17, 21-22, 26, 28, 42, 44-46, and 48-80.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 13-17, 21, 22, 25, 26, 28, 42-46 and 48-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard U.S. Patent Publication No. 2002/0046154 A1 (PTO-892 Reference A) in view of Lipper U.S. Patent Number. 7,487,122 B2 (PTO-892 Reference C).

4. As per claim 13, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses wherein the plurality of assets are from one or more categories including: fixed income securities, stocks, futures contracts, options contracts, commodities, currencies, other securities, non-security financial instruments, real property leases, leases, and collectibles (see Lipper Fig 1 and Col 4 Lns 49-67, From this list, a user can select a particular security or subset of securities for analysis . . . it should be understood that the system works just as well with debt instruments, options, and commodities futures. Therefore, the use of the term "security" is not intended to be limited to stocks, but should be inferred to include all types of securities).

5. As per claim 14, Lipper discloses a method comprising the steps of:

- ✓ displaying a plurality of assets to a user via a first computing device(see Lipper Fig 1 and Col 4 Lns 49-67);
- ✓ receiving from the user via the first computing device at least two selected assets from the plurality of assets, wherein at least a first and a second of the selected assets are different assets (see Lipper Col 5 Lns 53-56);
- ✓ a second computing device: comparing a rate of return of at least one of the assets within the dynamic security to a pre-determined target rate of return (Lipper Col 6 Lns 21-58);
- ✓ determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return least a pre-determined amount (Lipper Col 6 Lns 53-54) examiner interprets Lipper does disclose displaying the determination of the return of a security based on being indexed by another security and that the rate of return deviates by at least 0.1 according to the decimal places listed) ; and
- ✓ based at least in part on determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return by at least the pre-determined amount, providing to the user via the first

computing device a notification of the deviation (Lipper  
Col 6 Lns 35-58).

However, Lipper does not explicitly disclose:

- ✓ purchasing the selected assets to form a dynamic security,  
wherein the user may trade the dynamic security as a whole,  
and/or may divide at least one asset from the dynamic  
security and trade the divided asset separately from the  
dynamic security;

Pritchard discloses the purchase of investment instruments  
(see Pritchard [0055]) and that the instruments may be  
disassembled and traded individually (Pritchard [0025]). It  
would have been obvious to combine the teachings of Lipper with  
Pritchard for the purpose of facilitating a financial management  
system for administrating investment instruments that can be  
traded (see Pritchard Abstract).

6. As per claim 15, Pritchard in view of Lipper disclose the  
limitations of claim 14. Lipper further discloses the step of  
monitoring a rate of return of each of the assets within the  
dynamic security (Lipper Col 6 Lns 21-58).

7. As per claim 16, Pritchard in view of Lipper disclose the  
limitations of claim 15. Lipper further discloses the step of  
comparing the rate of return of each of the assets within the

dynamic security to the pre-determined target rate of return (Lipper Col 6 Lns 21-58).

8. As per claim 17, Pritchard in view of Lipper disclose the limitations of claim 16. Lipper further discloses comprising the step of: for each of the assets within the dynamic security for which the respective rate of return deviates at-a from the pre-determined target rate of return by at least the pre-determined amount, providing to the user via the first computing device a notification of the respective deviation (Lipper Col 6 Lns 35-58).

9. As per claim 48, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses wherein the user specifies the pre-determined amount (Lipper Col 6 Lns 21-29).

10. As per claim 49, Pritchard in view of Lipper disclose the limitations of claim 48. Lipper further discloses, wherein the user specifies the pre-determined target rate of return (Lipper Col 6 Lns 21-29).

11. As per claim 50, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses the step of displaying to the user via the first computing device a purchase price for at least one of the plurality of assets (Lipper Col 5 Lns 25-27).

12. As per claim 51, Pritchard in view of Lipper disclose the limitations of claim 14. Pritchard further discloses the step of receiving from the user for at least one of the selected assets a quantity of the at least one selected asset to be purchased (Pritchard [0054]-[0055]).

13. As per claim 52, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses the step of: based at least in part on purchasing the selected assets, displaying the purchased assets to the user via the first computing device, wherein the purchased assets are displayed to the user so as to show that the purchased assets are part of the dynamic security (Lipper Fig 4 and Col 7 Lns 3-5).

14. As per claims 53-57, Pritchard in view of Lipper disclose the limitations of claim 14. Lipper further discloses wherein determining that the rate of return of the at least one asset deviates from the pre-determined target rate of return by at least the pre-determined amount comprises determining that the rate of return of the at least one asset exceeds the pre-determined target rate of return by at least the pre-determined amount; providing to the user the notification of the deviation comprises providing to the user a notification of an increase in value of the at least one asset; determining that the rate of return of the at least one asset deviates from the pre-



determined target rate of return by at least the pre\-\-determined amount comprises determining that the pre-determined target rate of return exceeds the rate of return of the at least one asset by at least the pre-determined amount; and providing to the user the notification of the deviation comprises providing to the user a notification of a decrease in value of the at least one asset (Lipper Col 6 Lns 52-55).

15. As per claims 58-60, Pritchard in view of Lipper disclose the limitations of claim 14. Pritchard further discloses after providing to the user the notification, receiving from the user an indication to sell the at least one asset; and based at least in part on receiving the indication, trading the at least one asset without trading the other assets within the dynamic security; and after trading the at least one asset, receiving from the user via the first computing device another selected asset from the plurality of assets; and purchasing the another selected asset such that the another selected asset becomes part of the dynamic security (see Pritchard [0063]).

16. Claims 21, 22, 25, 26, 28, 42-46 and 61-80 are rejected using logic similar to that used in the rejection of claims 13-17.

***Response to Arguments***

17. Applicant's arguments filed 09/08/2008 have been fully considered but are moot in view of the new grounds of rejection.

***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUKS ONYEZIA whose telephone number is (571)270-1372. The examiner can normally be reached on Monday - Thursday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chuks Onyezia/  
Examiner, Art Unit 3691

/Alexander Kalinowski/  
Supervisory Patent

Art Unit: 3691

Examiner, Art Unit 3691

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